

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 9821 of 1998

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT

- =====
1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

DINESHKUMAR VALLABBHAI PATEL

Versus

STATE OF GUJARAT

Appearance:

MR HR PRAJAPATI for Petitioner

MS HANSABEN PUNANI AGP for Respondent No. 1, 2, 3

CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 27/07/1999

ORAL JUDGEMENT

Heard the learned advocates for the respective parties.

2. The petitioner herein challenges the order of preventive detention dated 17th November, 1998 made by the Commissioner of Police, Ahmedabad City, under the

powers conferred upon him under Sub-section 2 of Section 3 of the Gujarat Prevention of Anti-Social Activities Act, 1985 [hereinafter referred to as, 'the Act'].

3. The petitioner is alleged to be a 'bootlegger' whose activities are found to be prejudicial to the maintenance of 'public order'. On 13th January, 1998, an offence was registered against the petitioner. Substantial quantity of foreign liquor was recovered from the vehicle belonging to the petitioner. In connection with the said offence, the petitioner was arrested on 1st June, 1998 and was released on the same day. Thereafter, on 2nd November, 1998 and 5th November, 1998, police has recorded statements of two witnesses which were verified on 7th November, 1998 and the impugned order was made on the same date. It is submitted that the action taken by the detaining authority is ex facie grossly belated. The offence having been registered on 13th January, 1998 for 10 long months, no action has been initiated against the petitionenr and suddenly in the month of November, 1998, two statements have been recorded by the police, relying on which, the impugned order has been made on 7th November, 1998. The detaining authority has not been able to give satisfactory explanation for this delay. The impugned order is vitiated on this ground alone.

4. The petition is, allowed. The impugned order dated 7th November, 1998; Annexure-A to the petition, is quashed and set-aside. Rule is made absolute. Petitioner, unless is required to be detained in some other case, be released forthwith.

Prakash*